

REMARKS

Please cancel Claim 12 and amend Claim 8, as shown hereabove.

REJECTIONS**Rejections under 35 U.S.C. § 103**

Claims 1, 4-10, and 12-23 are rejected under 35 USC Section 103(a) as being unpatentable over US Patent No. 6,320,857, to Tonnby et al. (hereinafter referred to as "Tonnby") in view of US Patent No. 6,064,673 to Anderson (hereinafter referred to as "Anderson"). Applicant hereby respectfully disagrees with this rejection.

In order for an obviousness rejection to be proper, the Patent Office must meet the burden of establishing a *prima facie* case of obviousness. Thus, the Patent Office must meet the burden of establishing that all elements of the invention are disclosed in the prior art, that the prior art must contain a suggestion, teaching or motivation for one of ordinary skill in the art to modify a reference or combined references; and that the proposed modification of the prior art must have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made.¹

The Applicant respectfully asserts that the Examiner has misinterpreted the teachings of Tonnby. Referring to Figure 4, reference 8, the Examiner erroneously equates Internet access server 8 with a splitter for splitting the telephone signals and the computer signals. However, examination of Tonnby reveals that Internet access server 8 is simply an internet gateway between the PSTN and the internet (See Tonnby, Column 3, lines 62-64.) As such, Internet access server 8 merely provides a path to the internet and does not "split the telephone signal and computer signal", as asserted by the Examiner. The internet access server 8 merely directs the incoming signal to its addressed destination. Moreover, it should be clear that although Tonnby

¹ *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996); *In re Sang Su Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

discloses a Tele server 10 which "converts analogue speech signals into digital format (and visa versa)" (see Tonnby, Column 7, lines 7-10), Tonnby teaches disposing Tele server 10 on the public (network) side of the PSTN and thus NOT connecting Tele server 10 to a modem, remote or otherwise. As such, the Applicant respectfully asserts that Tonnby DOES NOT disclose a "converter electrically interconnected to a telephone interconnection of said remote modem and receiving said telephone transmission signals therefrom and providing an audio output signal", as claimed by Applicant's Claim 1.

Moreover, the Applicant respectfully asserts that the Examiner has further misinterpreted the teachings of Anderson. Specifically, the Examiner asserts that Anderson discloses an interface machine for processing a received telephone signal into a network audio signal for transmitting via WAN to a local system having a second sound mechanism for processing received network audio into a continuous audio signal and an automated attendant system for gathering information. It should be clear that Anderson describes a particular packet based communication system for transmitting audio information over a WAN (see col. 2, lines 31-49) that has nothing to do with, or that is even similar to, the claimed invention. As such, the Applicant respectfully asserts that Anderson DOES NOT disclose, teach or suggest a converter or splitting an audio signal let alone "an interface machine splitting a portion of said audio output signal from said converter." Furthermore, neither Tonnby nor Anderson have any disclosure, teaching, suggestion or provide motivation to combine or modify the disclosures of Tonnby or Anderson.

In light of the above discussion, the Applicant asserts that the Examiner has failed to show that all elements of the Applicant's invention are disclosed in either Tonnby or Anderson. The Applicant further asserts that the Examiner has failed to show the existence of any teaching, suggestion or motivation to modify or combine Tonnby and Anderson. As such, the Applicant respectfully asserts that the Examiner has failed to establish *prima facie* obviousness as required by well settled patent law. Thus, reconsideration and allowance of this application are now believed to be in order, and such action is hereby requested. The Examiner is invited and encouraged to telephone the undersigned with any concerns in furtherance of the prosecution of the present application.

Please charge any deficiency as well as any other fees which may become due at any time during the pendency of this application, or credit any overpayment of such fees to deposit account No. 50-0369. Also, in the event any extensions of time for responding are required for the pending application(s), please treat this paper as a petition to extend the time as required and charge deposit account No. 50-0369 therefore.

Respectfully submitted,

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